



655 Fifteenth Street, NW, Suite 225  
Washington, DC 20005  
balljanik.com  
t 202.636.3307  
f 202.783.6347

232073

March 20, 2012

ENTERED  
Office of Proceedings

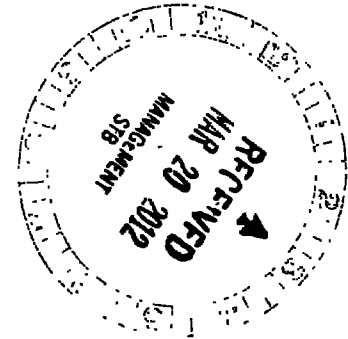
Karl Morell  
Of Counsel  
kmorell@balljanik.com

MAR 20 2012

BY HAND DELIVERY

Part of  
Public Record

Cynthia Brown  
Chief, Section of Administration  
Surface Transportation Board  
Office of Proceedings  
395 E Street, SW  
Washington, DC 20423



Re: STB Docket No. AB 6 (Sub-No. 480X), BNSF Railway  
Company -- Abandonment Exemption -- In Oklahoma  
County, Oklahoma

Dear Ms. Brown:

Attached for filing are the original and ten copies of a Notice of  
Exemption under 49 C.F.R. § 1152.50. Also attached is a check  
covering the \$3,600 filing fee..

**RECEIVED**

If you have any questions, please call me.

MAR 20 2012

Sincerely,

Karl Morell  
Of Counsel

**CONTRACT  
TRANSPORTATION BOARD**

**FILED**

MAR 20 2012

Enclosures

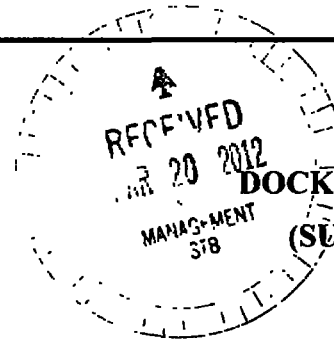
**SURFACE  
TRANSPORTATION BOARD**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**BNSF RAILWAY COMPANY  
ABANDONMENT EXEMPTION  
IN OKLAHOMA COUNTY,  
OKLAHOMA**

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)  
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**DOCKET NO. AB 6  
(SUB-NO. 480X)**

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**NOTICE OF EXEMPTION**

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**BNSF RAILWAY COMPANY**  
2650 Lou Menk Drive  
P.O. Box 96157  
Fort Worth, TX 76161-0057

**Courtney Biery Estes**  
General Attorney  
BNSF Railway Company  
2500 Lou Menk Drive, AOB-3  
Fort Worth, Texas 76131-2828

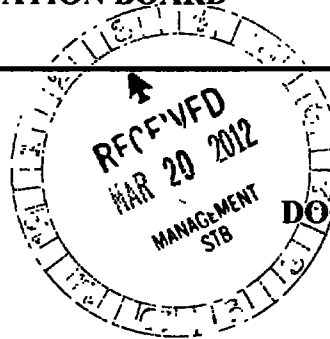
**Karl Morell**  
Of Counsel  
BALL JANIK LLP  
Suite 225  
655 Fifteenth Street, N.W.  
Washington, D.C. 20005  
(202) 638-3307

Dated: March 20, 2012

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**BNSF RAILWAY COMPANY  
ABANDONMENT EXEMPTION  
IN OKLAHOMA COUNTY,  
OKLAHOMA**

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)  
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**DOCKET NO. AB 6  
(SUB-NO. 480X)**

**NOTICE OF EXEMPTION**

BNSF Railway Company ("**BNSF**") files this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1152.50 to abandon 1.22 miles of rail line located between Milepost 541.69 and Milepost 542.91 in Oklahoma City, Oklahoma County, Oklahoma (the "**Line**"). There are no stations on the Line.

**1.     *Proposed consummation date.***

The proposed consummation date is May 9, 2012.

**2.     *Certification required by 49 C.F.R. § 1152.50(b).***

The required certification is attached hereto as **Exhibit A**.

**3.     *Information required by 49 C.F.R. § 1152.22(a)(1) through (4), (7) and (8) and (e)(4).***

**(a)    *General.***

**(1)    *Exact name of applicant.***

BNSF Railway Company

- (2) ***Whether applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.***

BNSF is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

- (3) ***Relief sought.***

BNSF seeks to use the class exemption at 49 C.F.R. § 1152.50 to abandon 1.22 miles of rail line located between Milepost 541.69 and Milepost 542.91 in Oklahoma City, Oklahoma County, Oklahoma.<sup>1</sup> There has been no local or overhead freight rail traffic on the Line in at least two years.

- (4) ***Map.***

A map of the Line is attached as **Exhibit B**.

- (7) ***Name, title and address of representative of applicant to whom correspondence should be sent.***

Karl Morell  
Of Counsel  
BALL JANIK LLP  
Suite 225  
655 Fifteenth Street, N.W.  
Washington, D.C. 20005  
(202) 638-3307

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<sup>1</sup> The Line was included in the notice of exemption in STB Docket No. AB 6 (Sub-No. 430X), *BNSF Railway Company – Abandonment Exemption – In Oklahoma County, OK* (not printed) served June 5, 2008 (“*Oklahoma City Abandonment*”), which was rejected by the Surface Transportation Board (“Board”) on grounds that a short segment of track to the east of the Line did not qualify for the two-year out of service class exemption. The purpose of the filing in *Oklahoma City Abandonment* was to relocate two sections of BNSF rail line to make way for an important highway relocation project. When BNSF filed its Petition for Declaratory Order in STB Finance Docket No. 35164, it did not include the Line because the Line was not in the way of the highway project and also to accommodate Oklahoma City’s desire to rail-bank the Line.

- (8) ***List of all United States Postal Service ZIP codes that the line proposed for abandonment traverses.***

The Line traverses U.S. ZIP codes: 73108 and 73109.

- (e) ***Rural and community impact.***
- (4) ***Statement of whether the properties proposed to be abandoned are appropriate for use for other public purposes, including roads and highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of property for other than rail purposes, this shall be disclosed.***

The Line traverses predominantly suburban/urban areas with more than adequate road and highway networks, therefore, there is little or no likelihood that the rail corridor is needed for transit purposes. The right-of-way, however, is suitable for recreational trails. Oklahoma City has expressed an interest in railbanking the Line. Some of the property underlying the right-of-way is reversionary, which would affect the transfer of the property for other than rail or rail-banking purposes.

**4. *The level of labor protection.***

The interests of railroad employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protective conditions in *Oregon Short Line R. Co. – Abandonment – Goshen*, 360 I.C.C. 91 (1979).

**5. *Certification.***

Certificates of compliance with the notice requirements of 49 C.F.R. §§ 1152.50(d)(1) and 1105.12 are attached as **Exhibit C**.

**6. *Environmental Report.***

The Environmental Report containing information required by 49 C.F. R. § 1105.7(e) is attached hereto as **Exhibit D**. Based on information in our possession, the Line does not contain federally granted rights-of-way. Any documentation in BNSF's possession will be made available promptly to those requesting it.

**7. *Historic Report.***

The Historic Report containing information required by 49 C.F.R. § 1105.8 is attached hereto as **Exhibit D**.

Respectfully submitted,

**Courtney Biery Estes**  
General Attorney  
BNSF Railway Company  
2500 Lou Menk Drive, AOB-3  
Fort Worth, Texas 76131-2828

  
**Karl Morell**  
Of Counsel  
BALL JANIK LLP  
Suite 225  
655 Fifteenth Street, N.W.  
Washington, D.C. 20005  
(202) 638-3307

Dated: March 20, 2012

**EXHIBIT A**

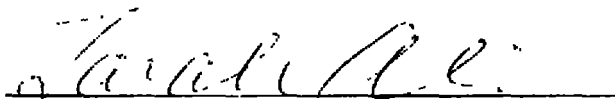
**VERIFICATION AND CERTIFICATION THAT RAIL LINE MEETS  
CRITERIA OF 49 C.F.R. SECTION 1152.50(b)**

**STATE OF TEXAS** )  
 ) **ss.**  
**TARRANT COUNTY** )

I, Farah Ali, being duly sworn depose and state that I am Manager Network Studies for BNSF Railway Company ("**BNSF**"), that I am authorized to make this verification and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information and belief.

I hereby certify that no local traffic has been handled to or from any customer over the rail line located between Milepost 541.69 and Milepost 542.91 in Oklahoma City, Oklahoma County, Oklahoma ("the **Line**") for at least two years. Also, no overhead traffic has been handled on the Line for at least two years and any future overhead traffic can be rerouted over other rail lines. Further, no formal complaint filed by a user of rail service on the Line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period.

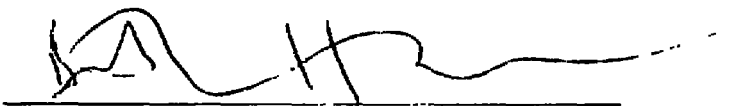
The foregoing certification is made on behalf of BNSF by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information and belief of the undersigned.



Farah Ali  
Manager Network Studies

SUBSCRIBED AND SWORN TO before me this 14<sup>th</sup> day of March, 2012.

My Commission Expires: \_\_\_\_\_

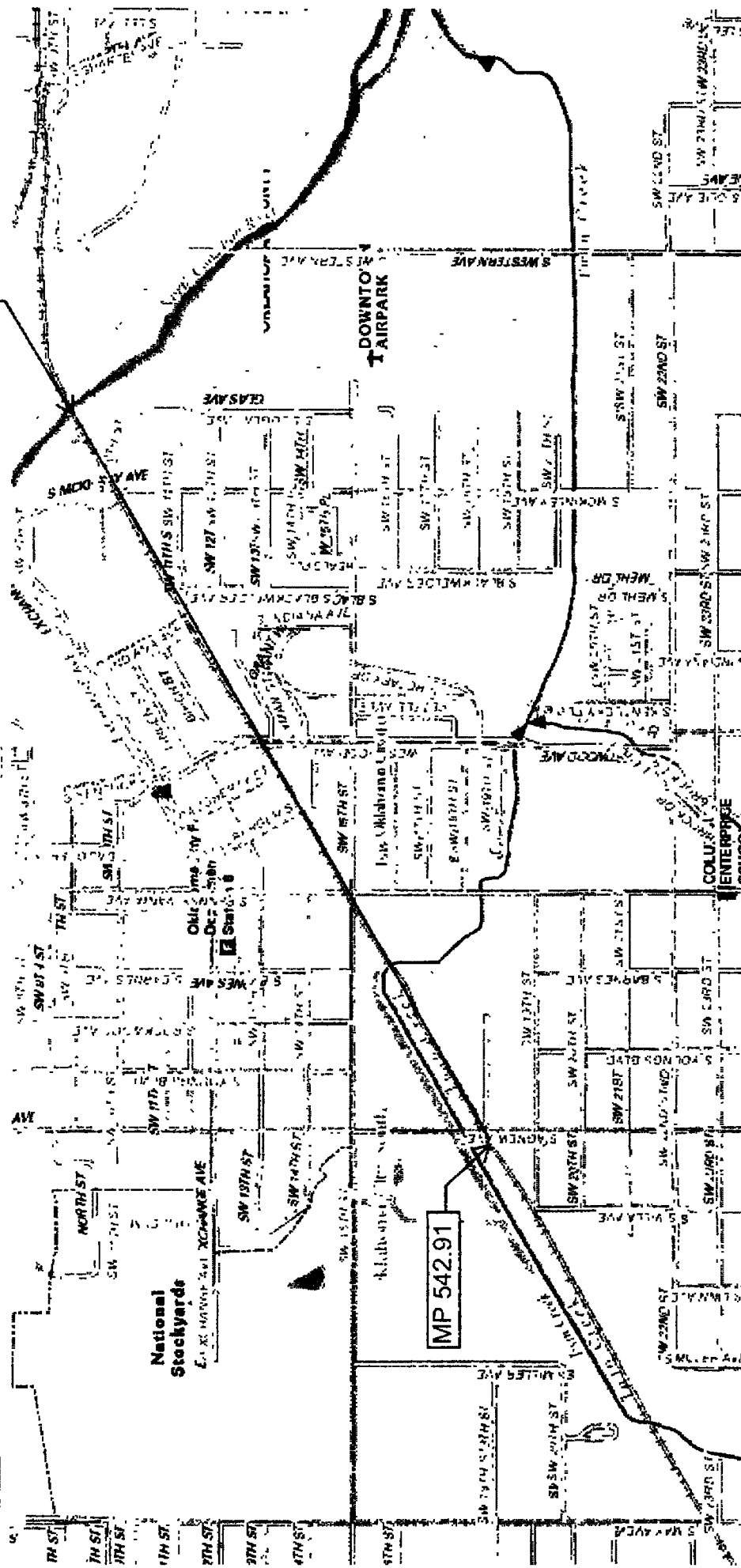


Notary Public



MP 541.69

OKC, OK



MP 542.91

Mon Sep 12 15:39:35 MDT 2011

EXHIBIT B

## **EXHIBIT C**

### **CERTIFICATE OF SERVICE**

Pursuant to 49 C.F.R. § 1152.50(d)(1), the undersigned hereby certifies that notice of the proposed abandonment in STB Docket No. AB 6 (Sub-No. 480X) was mailed via first class mail on March 1, 2012, to the following parties:

#### **State Public Service Commission**

Oklahoma Corporation Commission  
P.O. Box 52000  
Oklahoma City, OK 73152-2000

#### **Military Traffic Management Command**

Military Surface Deployment and Distribution Command Transportation  
Engineering Agency  
ATTN: SDTE-SA (Railroads for National Defense)  
1 Soldier Way, Building 1900W  
Scott AFB, IL 62225-5006

#### **National Park Service**


U.S. Department of the Interior  
National Park Service  
Recreation Resources Assistance Division  
1849 C Street, NW  
Washington, DC 20240-0001

Ms. Cheryl Eckhardt  
National Park Service  
12795 Alameda Parkway  
Denver, CO 80225

#### **U.S. Department of Agriculture**

U.S. Department of Agriculture  
Chief of the Forest Service  
4th Floor N.W., Yates Building  
201 14<sup>th</sup> Street, SW  
Washington, DC 20250

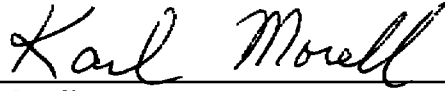
Dated: March 20, 2012

  
Karl Morell

### **CERTIFICATE OF PUBLICATION**

The undersigned hereby certifies that notice of the proposed abandonment in STB Docket No. AB 6 (Sub-No. 480X) was published on March 8, 2012, in The Oklahoman, a newspaper of general circulation in Oklahoma County, Oklahoma as required by 49 C.F.R. § 1105.12.

Dated: March 20, 2012

A handwritten signature in cursive script that reads "Karl Morell". The signature is written in black ink and is positioned above a horizontal line.

Karl Morell

**CERTIFICATE OF SERVICE  
ENVIRONMENTAL AND HISTORIC REPORTS**

The undersigned hereby certifies that, in STB Docket No. AB 6 (Sub-No. 480X), the transmittal letter required by 49 C.F.R. § 1105.11, was mailed to all agencies listed in 49 C.F.R. § 1105.7(b), as well as the additional agencies listed below via first class mail on February 23, 2012.

Pursuant to the requirements of 49 C.F.R. § 1105.7 and 1105.8, the undersigned hereby certifies that copies of the Environmental and Historic Reports were mailed via first class mail on February 23, 2012 to the following agencies:

Ms. Victoria Rutson  
Chief, Section of Environmental Analysis  
Surface Transportation Board  
395 E Street S.W.  
Washington, DC 20423-0001

---

Bureau of Land Management  
Oklahoma Field Office  
7906 E. 33<sup>rd</sup> Street, Suite 101  
Tulsa, OK 74145-1352

Susan Henry, Planner  
Conservation and Planning  
Oklahoma Tourism and Recreation Dept.  
120 N. Robinson, Suite 600  
Oklahoma City, OK 73102

The National Geodetic Survey  
Department of Commerce/NOAA  
SSMC3  
Station 9356  
1315 East West Highway  
Silver Spring, MD 20910

Mr. Matt Pace  
Environmental Program Specialist  
Water Quality Department  
Oklahoma Dept. of Environmental Quality  
707 N Robinson  
Oklahoma City, OK 73102

Mr. Brent Larsen  
USEPA REGION 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

Dr. Benjamin Tuggle  
Regional Director  
U.S. Fish & Wildlife Service  
Southwest Region  
P.O. Box 1306  
Albuquerque, NM 87103-1306

Ms. Cheryl Eckhardt  
National Park Service  
12795 Alameda Parkway  
Denver, CO 80225

Mr. Rodney Shaw  
District Conservationist  
Oklahoma City Field Service Center  
U.S. Natural Resources Conservation Service  
4850 N. Lincoln Blvd., Suite B  
Oklahoma City, OK 73105-3315


Ms. Melvena Heisch  
Deputy State Historic Preservation Officer  
State Historic Preservation Office  
Oklahoma Historical Society  
Oklahoma History Center  
800 Nazih Zuhdi Drive  
Oklahoma City, OK 73105

Chief Regulatory Branch  
U.S. Army Corps of Engineers  
Tulsa District  
1645 S 101 E Ave  
Tulsa, OK 74128-4609

Oklahoma Dept. of Transportation  
Rail Programs Division  
200 N.E. 21<sup>st</sup> Street  
Oklahoma City, OK 73105

Oklahoma Corporation Commission  
P.O. Box 52000  
Oklahoma City, OK 73152-2000

Dated: March 20, 2012

  
Karl Morell

**EXHIBIT D**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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<b>BNSF RAILWAY COMPANY</b>	<b>)</b>	
<b>ABANDONMENT EXEMPTION</b>	<b>)</b>	<b>DOCKET NO. AB 6</b>
<b>IN OKLAHOMA COUNTY,</b>	<b>)</b>	<b>(SUB-NO. 480X)</b>
<b>OKLAHOMA</b>		

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**ENVIRONMENTAL AND HISTORIC REPORTS**

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**BNSF RAILWAY COMPANY**  
2650 Lou Menk Drive  
P.O. Box 96157  
Fort Worth, TX 76161-0057

**Courtney Biery Estes**  
General Attorney  
BNSF Railway Company  
2500 Lou Menk Drive, AOB-3  
Fort Worth, Texas 76131-2828

**Karl Morell**  
Of Counsel  
BALL JANIK LLP  
Suite 225  
655 Fifteenth Street, N.W.  
Washington, D.C. 20005  
(202) 638-3307

**Service Date:** February 23, 2012

## **ENVIRONMENTAL REPORT**

**(49 C.F.R. § 1105.7)**

***(1) Proposed Action and Alternatives. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.***

BNSF Railway Company ("BNSF") proposes to abandon the 1.22-mile rail line located between Milepost 541.69 and Milepost 542.91 at Oklahoma City, in Oklahoma County, Oklahoma (the "Line"). Oklahoma City has expressed an interest in railbanking the Line. A map of the project area is attached as **Exhibit A**.

BNSF's salvage process as it relates to this project is as follows:

The proposed abandonment will include the removal of the rails and ties. There are no bridges on this Line. The railroad right-of-way, ballast and culverts will remain in place.

The salvage process begins with the unbolting of the track materials or rails. With the use of specialized machinery placed on the railroad right-of-way, the rails and related steel (angle bars, tie plates, spikes, switches and any other metal parts) are removed. Next the wooden ties are raised from the ballast with a tool designed for minimum disruption of ground material. The ties are separated into three groups as follows: (1) good quality ties that will be re-used in rail service, (2) landscape-quality ties that will be sold to lumber dealers for landscaping and (3) scrap ties. Scrap ties are loaded into railcars and shipped by BNSF to an EPA-approved disposal site.

The culverts, ballast and right-of-way will remain intact so as not to alter the prevailing waterflows along the Line. In addition, BNSF salvage contractors are required to limit

their activities to the width of the right-of-way and not to place fills or other material in water bodies, including inland waterways. When the salvage process is complete, waterflows in the area should not be disrupted.

Finally, road crossings are removed and remediated, then repaved with gravel, asphalt or concrete, as required by governing authority. Any signals are also dismantled and removed.

BNSF salvage work for abandonments is always performed by experienced rail material salvagers and is generally bid on the open market. Each salvage contract includes detailed information on any environmental or historical conditions recommended by the Office of Environmental Analysis (“OEA”) and imposed by the Surface Transportation Board (“STB”) in the final decision. Completed work is independently inspected by a BNSF roadmaster (or equal representative) to ensure compliance with BNSF standards of quality and all contractual obligations, including STB-imposed conditions, if applicable.

The Line has had no local or overhead traffic in at least two years and no track maintenance performed for at least five years. Therefore, the proposed abandonment will have no impact on rail freight operations and maintenance practices on the Line.

The only alternative to abandonment would be to not abandon the Line and forego the opportunity costs from salvaging the Line.

***(2) Transportation System Describe the effect of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.***

There will be no passenger or freight traffic diverted to other transportation systems as a



result of the proposed abandonment. The Line has had no local or overhead traffic in at least two years.

**(3) Land Use**

***(i) Based on consultation with local and/or regional planning agencies and/or review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.***

The proposed action is consistent with existing land use plans. BNSF contacted the Oklahoma Tourism and Recreation Department in reference to the proposed abandonment. As of the date of this Environmental Report, the agency has not responded to our inquiry. A copy of the letter is attached as **Exhibit B**.

***(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agriculture land.***

BNSF does not believe that the proposed abandonment will have an adverse effect on prime agriculture land. BNSF sent a letter to the Oklahoma Natural Resources Conservation Service. Mr. Rodney Shaw, District Conservationist, replied in a letter dated December 22, 2011 stating “.....no prime farmland or wetlands on agricultural land will be affected.” A copy of the letter is attached as **Exhibit C**.

***(iii) If any action affects land or water uses within a designated coastal zone, include the coastal zone information required by § 1105.9.***

Not applicable.

***(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10905 and explain why.***

The proposed abandonment may be suitable for alternative public use. BNSF contacted the Oklahoma Tourism and Recreation Department in reference to the

proposed abandonment. As of the date of this Environmental Report, the agency has not responded to our inquiry.

**(4) Energy**

**(i) *Describe the effect of the proposed action on transportation of energy resources.***

The proposed abandonment will have no effect on the transportation of energy resources.

**(ii) *Describe the effect of the proposed action on recyclable commodities.***

The proposed abandonment will not adversely affect the movement or recovery of recyclable commodities.

**(iii) *State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.***

The proposed action will not result in an increase or decrease in overall energy efficiency as there has been no local or overhead traffic on the Line in at least two years.

**(iv) *If the proposed action will cause diversions from rail to motor carriage of more than:***

**(A) *1,000 rail carloads a year, or***

**(B) *an average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in the energy consumption and show the data and methodology used to arrive at the figure given.***

The proposed abandonment will not result in a diversion of rail to motor carriage.

**(5) Air**

**(i) *If the proposed action will result in either:***

***(A) an increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of the line affected by the proposal, or***

***(B) an increase in rail yard activity of at least 100 percent (measured by carload activity), or***

***(C) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.***

The proposed action will not result in meeting or exceeding the specified thresholds for increased rail or truck traffic as outlined in (i) (A), (B) or (C) above.

***(ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either:***

***(A) an increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line,***

***(B) an increase in rail yard activity of at least 20 percent (measured by carload activity), or***

***(C) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by State Implementation Plan. However, for a rail construction under 49 U.S.C. § 10901 (or 49 U.S.C. § 10505) or a case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.***

The proposed action will not result in meeting or exceeding the specified thresholds in (ii) (A), (B) or (C) above.

***(iii) If the transportation of ozone depleting materials (such as nitrogen oxide and Freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.***

The proposed abandonment will not affect the transportation of ozone depleting materials.

**(6) Noise** *If any of the thresholds identified in item (5) (i) of this section are surpassed, state whether the proposed action will cause:*

**(i)** *an incremental increase in noise levels of three decibels Ldn or more; or*

**(ii)** *an increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g. schools, libraries, hospitals, residences, retirement communities and nursing homes) in the project area and quantify the noise increase for these receptors if the thresholds are surpassed.*

Not applicable.

**(7) Safety**

**(i)** *Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad crossings).*

This abandonment should have no adverse effect on health or public safety.

There are seven (7) public at-grade crossings on the Line (6 closed and 1 active).

**(ii)** *If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills, and the likelihood of and accidental release of hazardous materials.*

The abandonment will not result in the transportation of hazardous materials.

**(iii)** *If there are any known hazardous waste sites or sites where there have been known hazardous material spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.*

There are no known hazardous waste sites or sites where there have been known hazardous material spills on the right-of-way.

**(8) Biological Resources**

***(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.***

BNSF does not believe that the proposed abandonment will have an adverse effect on endangered or threatened species or areas designated as a critical habitat. BNSF contacted the U.S. Fish and Wildlife Service, Southwest Region ("USFWS"), in reference to this proposed abandonment. BNSF consulted with Richard Stark, USFWS, and was provided instructions on how to self-assess whether the proposed action would be likely to adversely affect endangered or threatened species or areas designated as a critical habitat. During the self-assessment process BNSF was required to consult with the Oklahoma Department of Wildlife Conservation and the Oklahoma Natural Heritage Inventory and based on comments provided by both agencies, BNSF determined that there would be "no effect" to any endangered or threatened species regarding this proposed action. A copy of BNSF's self-assessment is attached as **Exhibit D**.

***(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.***

BNSF does not believe that any wildlife sanctuaries or refuges, National or State parks or forests will be adversely affected by the proposed abandonment. BNSF contacted the Bureau of Land Management (Oklahoma Field Office) and the National Park Service in reference to the proposed abandonment. As of the date of this Environmental Report, the Bureau of Land Management has not responded to our inquiry. The National Park Service responded by stamping its reply on our

initial letter stating, "The National Park Service reviewed this project, and determined that no parks will be affected; therefore, we have no comments."

Copies of the letters are attached as **Exhibit E**.

**(9) Water**

***(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.***

BNSF contacted the Oklahoma Department of Environmental Quality and EPA Region 6 in reference to this proposed abandonment. As of the date of this Environmental Report, the Oklahoma Department of Environmental Quality has not responded to our inquiry. Brent Larsen, EPA Region 6, responded via e-mail, dated December 13, 2011, stating, "According to your description of the project, it would disturb less than one acre and would therefore fall below the threshold requiring a permit under the NPDES construction storm water program." A copy of the letter and e-mail are attached as **Exhibit F**.

***(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under Section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.***

BNSF is confident that no designated wetlands or 100-year flood plains will be adversely affected by the proposed abandonment. BNSF contacted the Tulsa District of the Department of the Army, Corps of Engineers in reference to the proposed abandonment. Andrew Commer, Chief, Regulatory Office with the Corps of Engineers replied in a letter, dated January 31, 2012, stating: "Your proposed activity is not subject to regulation pursuant to Section 404 of the Clean

Water Act, and a Department of the Army (DA) permit will not be required.” A copy of the letter is attached as **Exhibit G**.

*(iii) State whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required).*

BNSF contacted the Oklahoma Department of Environmental Quality and EPA Region 6 in reference to this proposed abandonment. As of the date of this Environmental Report, the Oklahoma Department of Environmental Quality has not responded to our inquiry. Brent Larsen, EPA Region 6, responded via e-mail, dated December 13, 2011, stating: “According to your description of the project, it would disturb less than one acre and would therefore fall below the threshold requiring a permit under the NPDES construction storm water program.” A copy of the letter and e-mail are attached as **Exhibit F**.

*(10) **Proposed Mitigation.** Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.*

BNSF does not expect any adverse environmental impact from the proposed abandonment and, therefore, sees no need for any mitigating actions. BNSF will, of course, consult (as required) with any recipients of this Environmental Report regarding appropriate mitigation actions and will comply with those mitigation actions required by the Board.

## **HISTORIC REPORT**

### **(49 C.F.R. § 1105.8)**

***(1) Proposed Action and Alternatives. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.***

BNSF Railway Company ("BNSF") proposes to abandon the 1.22-mile rail line located between Milepost 541.69 and Milepost 542.91 in Oklahoma City, within Oklahoma County, Oklahoma (the "Line"). Oklahoma City has expressed an interest in railbanking the Line. A map of the project area is attached as **Exhibit A**.

BNSF's salvage process as it relates to this project is as follows:

The proposed abandonment will include the removal of the rails and ties. There are no bridges on this Line. The railroad right-of-way, ballast and culverts will remain in place.

The salvage process begins with the unbolting of the track materials or rails. With the use of specialized machinery placed on the railroad right-of-way, the rails and related steel (angle bars, tie plates, spikes, switches and any other metal parts) are removed. Next the wooden ties are raised from the ballast with a tool designed for minimum disruption of ground material. The ties are separated into three groups as follows: (1) good quality ties that will be re-used in rail service, (2) landscape-quality ties that will be sold to lumber dealers for landscaping and (3) scrap ties. Scrap ties are loaded into railcars and shipped by BNSF to an EPA-approved disposal site.



The culverts, ballast and right-of-way will remain intact so as not to alter the prevailing waterflows along the line. In addition, BNSF salvage contractors are required to limit their activities to the width of the right-of-way and not to place fills or other material in water bodies, including inland waterways. When the salvage process is complete, waterflows in the area should not be disrupted.

Finally, road crossings are removed and remediated, then repaved with gravel, asphalt or concrete, as required by governing authority. Any signals are also dismantled and removed.

BNSF salvage work for abandonments is always performed by experienced rail material salvagers and is generally bid on the open market. Each salvage contract includes detailed information on any environmental or historical conditions recommended by the Office of Environmental Analysis ("OEA") and imposed by the Surface Transportation Board ("STB") in the final decision. Completed work is independently inspected by a BNSF roadmaster (or equal representative) to ensure compliance with BNSF standards of quality and all contractual obligations, including STB-imposed conditions, if applicable.

The Line has had no local or overhead traffic in at least two years and no track maintenance performed for at least five years. Therefore, the proposed abandonment will have no impact on rail freight operations and maintenance practices on the Line.

The only alternative to abandonment would be to not abandon the Line and forego the opportunity costs from salvaging the Line.

## **HISTORIC REPORT**

- 1. A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action.***

The required topographic map is attached to this Report as **Exhibit A**.

- 2. A written description of the right-of-way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristics of the surrounding area***

The subject Line extends approximately 1.22 miles between Milepost 541.69 and Milepost 542.91 in Oklahoma City, within Oklahoma County, Oklahoma. The average width of the right-of-way is generally 100 feet across, 50 feet on each side of the centerline of the Line. Oklahoma City has expressed an interest in railbanking the Line. There are no federally granted rights of way involved.

- 3. Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area.***

There are no bridges on the Line.

- 4. The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations, to the extent such information is known.***

There are no bridges on the Line.

- 5. A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action.***

On July 15, 1899, the Oklahoma City and Western Railroad Company ("OCWR") was incorporated in Oklahoma. On July 18, 1907, OCWR sold the Line to the St. Louis and San Francisco Railroad Company ("SLSFRR"). On September 15, 1916, SLSFRR sold the

Line to the St. Louis-San Francisco Railway Company (“SLSF”). On November 21, 1980, SLSF was merged into Burlington Northern, Inc. (“BNI”). On May 14, 1981, BNI’s name changed to Burlington Northern Railroad Company (“BNRR”) and it became a wholly-owned subsidiary of BNI. BNRR merged with The Atchison, Topeka and Santa Fe Railway Company in 1996 to become The Burlington Northern and Santa Fe Railway Company, which name was changed to BNSF Railway Company in 2005.

**6. *A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic.***

Documents in BNSF's possession concerning this abandonment may include alignment maps showing the right-of-way and/or station maps. These documents are too large for practical reproduction in this report, but can be furnished upon request, if they are available.

**7. *An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 CFR 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities).***

BNSF contacted the Oklahoma Historical Society (“SHPO”) in reference to the proposed abandonment. By letter dated January 4, 2012, Melvena Heisch, Deputy State Historic Preservation Officer, stated, “We find that there are no known historic properties affected within the referenced project’s area of potential effect.” SHPO also stated that BNSF must contact the Oklahoma Archeological Survey (“OAS”) to obtain a determination about the presence of prehistoric resources that may be eligible for the National Register of Historic Places. By letter dated January 13, 2012, Adam Moody, Staff Archaeologist, and Robert Brooks, State Archaeologist, with OAS stated, “No sites are listed as occurring within your project area, and based on the topographic and hydrologic setting; no archaeological materials are likely to be

encountered. Thus an archaeological field inspection is not considered necessary.” Copies of the letters are attached as **Exhibit H**.

8. ***A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.***

The Line was disturbed during original construction by cuts and fill and any archaeological resources that may have been located in the proposed project area would have been affected at that time. Our records do not indicate any environmental conditions that might affect the archaeological recovery of resources.

9. ***Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specific non railroad owned properties or groups of properties immediately adjacent to the railroad right-of-way: photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the location and type of the site (i.e. prehistoric or native American).***

If any additional information is requested, BNSF will promptly supply the necessary information.

A







**John A. Sims, CP**  
Paralegal  
Law Department

**BNSF Railway Company**  
2500 Lou Menk Drive – AOB-3  
Fort Worth, Texas 76131-2828  
tel 817-352-2376  
fax 817-352-2397  
Email - [john.sims@bnsf.com](mailto:john.sims@bnsf.com)

December 8, 2011

Susan Henry, Planner  
Conservation and Planning  
Oklahoma Tourism and Recreation Dept.  
120 N. Robinson, Suite 600  
Oklahoma City, OK 73102

**Re: STB Docket No. AB-6 (Sub-No. 480X) BNSF Railway Company –  
Abandonment Exemption – in Oklahoma County, Oklahoma**

BNSF Railway Company ("BNSF") anticipates filing in the near future a Notice of Exemption seeking Surface Transportation Board ("STB") authority in the above-referenced docket to abandon 1.22 miles of rail line in Oklahoma County, Oklahoma, between Milepost 541.69 and Milepost 542.91 in Oklahoma City, within Oklahoma County, OK. You previously replied to an inquiry letter regarding a 2.95-mile rail line which included this rail line on August 9, 2005 (see copy enclosed). BNSF is once again seeking authority to abandon this 1.22-mile rail line.

As part of the environmental report, BNSF is required to contact you to determine if the proposed abandonment is consistent with existing land use plans. If applicable, please describe any inconsistencies.

Your assessment and comments are respectfully requested. For your reference a map of the subject railroad line is enclosed. Please provide your response to me at the address above, if at all possible, by January 20, 2012. You may contact me by email or phone with any questions or concerns. Thank you in advance for your time and contribution.

Sincerely,

A handwritten signature in black ink, appearing to be "John A. Sims", written over a horizontal line.

John A. Sims, CP  
Paralegal

Enclosure as stated

cc via email: Courtney Estes – BNSF – [courtney.estes@bnsf.com](mailto:courtney.estes@bnsf.com)  
Karl Morell – Ball Janik LLP – [kmorell@bjllp.com](mailto:kmorell@bjllp.com)  
Susan Odom – BNSF - [susan.odom@bnsf.com](mailto:susan.odom@bnsf.com)  
Mark Norton – BNSF – [mark.norton@bnsf.com](mailto:mark.norton@bnsf.com)  
Farah Ali – BNSF – [farah.ali@bnsf.com](mailto:farah.ali@bnsf.com)



## OKLAHOMA TOURISM & RECREATION DEPARTMENT

ROBB GRAY  
EXECUTIVE DIRECTOR

August 9, 2005

**EXHIBIT G**

Sidney Strickland and Associates, PLLC  
3050 K St. N.W., Suite 101  
Washington, DC 20007-4024

Re: BNSF Railway Company Abandonment of Oklahoma City, OK  
Trackage, AB-6-430X

Dear Mr. Strickland:

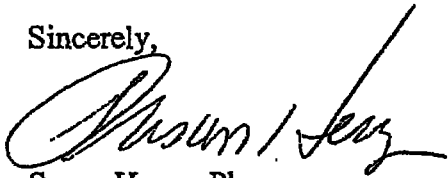
We have reviewed the information you have provided regarding the Railway Abandonment in Oklahoma City, Oklahoma.

We have checked out records and found one park near this site where federal funds were used under the Land and Water Conservation Fund Program. Attached is a description of the project. Our interest is in avoiding any damage or action that would adversely affect the park or recreational resources in the project area.

A conversion of any portion of the project lands to another use would be prohibited. It is recommended that you avoid any permanent impact to this park relative to the abandonment.

Thank you for the opportunity to review this project proposal. If you have any questions, please give me a call at 405-230-8490.

Sincerely,



Susan Henry, Planner  
Conservation and Planning  
Alternate State Liaison Officer for the  
Land and Water Conservation Fund

Attachment: 1

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T (405) 230-8300 • F (405) 230-8500  
WWW.TRAVELOK.COM



**United States Department of Agriculture**



Natural Resources Conservation Service, 4850 N Lincoln Blvd Suite B, Oklahoma City, OK 74105-3315  
405-521-1332 FAX 405-524-4450

BNSF Railway Company  
2500 Lou Menk Drive – AOB-3  
Fort Worth TX 76131-2828

12-22-2011

Re: STB Docket No. AB-6(Sub-No. 480X) In Oklahoma County,  
Oklahoma.

Letter Dated: December 8, 2011

John A Sims, CP  
Paralegal  
Law Department

The proposed activity or construction will occur on lands already committed to urban development. Therefore, no prime farmland or wetlands on agricultural land will be affected.

If our office can be of further assistance, please call me at 405-521-1332.

A handwritten signature in cursive script that reads "Rodney C. Shaw".

Sincerely,

/s/

Rodney C. Shaw  
District Conservationist

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## Project Reviews in Oklahoma

Project reviews in Oklahoma are typically in one of two forms; those that have a federal nexus (where a federal agency funds, authorizes, or carries out the program or project) and those that do not have a federal nexus. For those projects where a federal nexus exists, the federal action agency is responsible using the following instructions for reviewing and submitting project requests to the Oklahoma Ecological Services Field Office (OKESFO), unless they have formally designated a non-federal representative. All final determinations must be approved by the federal action agency. If your project does not have a federal nexus, the following instructions will allow you to determine if further coordination with the OKESFO may be necessary.

For **wind energy projects** additional review will be necessary to evaluate the project's potential impacts. Until the U.S. Fish and Wildlife Service finalizes wind guidelines, follow these project review steps and submit the project information to this office for review regardless of the outcome in the species conclusions table. For additional information on wind energy, please visit the following [link](#).

For **communication tower projects** follow the **self certification** procedure.

For **Actions with No Impacts to Federally-listed Species or other Federal Trust Resources** - Please review and use this **letter** as blanket clearance for certain projects which, in most cases, the Service believes will have no impact on federally-listed species or other trust resources. If your actions fall under the actions described in this letter, then print this letter for your records and do not continue with

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the project review.

**For all other project types**, the following steps will allow you to conduct a review of a project's potential impacts on federally listed threatened and endangered species, **federal candidate species**, and federally designated critical habitat. At the end of this review process you will be able to: (1) certify that you have completed required coordination with the U.S. Fish and Wildlife Service (Service) under the Endangered Species Act of 1973 (16 U.S.C. 1531-1544, 87 Stat. 884), as amended (ESA); and (2) expedite additional review by the Service.

These steps also provide information for your project review under the National Environmental Policy Act of 1969 (P.L. 91-190, 42 U.S.C. 4321-4347, 83 Stat. 852), as amended (NEPA) for federally listed species. However, these steps do not address other requirements under NEPA (i.e., wetlands, floodplains, and other important environmental resources). Compliance with NEPA is a separate process, that completed alone, does not ensure compliance with the ESA. The Federal action agency, not the Service, must ensure that all of the requirements necessary to comply with NEPA are met. Additional information regarding compliance with NEPA and other environmental statutes **can be found here**.

Please note that these project review steps do not currently cover the Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. 668-668c, 54 Stat. 250) , as amended, or the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703-712; Ch. 128; July 13, 1918; 40 Stat. 755). Additional guidance for the BGEPA **is located here**, and for the MBTA **is located here**. However, if you have any information regarding your project's impacts to bald and golden eagles or migratory birds, please include them in your project review package.

During the review process, you will be instructed to complete a "species conclusion table" and add information and documents which will be included in your "project review package." Once you complete the review process, you may be required to submit the project review package to this office. We prefer that you submit project review packages electronically to **OKProjectReview@fws.gov**. Please note

that any single email, including attachments, must be smaller than 25 MB. If a single email would be larger than 25 MB, please spread out multiple attachments among several emails (use the same subject name and project reference in all emails related to an individual project). If this is not practical, please mail a hard copy or DVD containing the project review package to our office:

US Fish & Wildlife Service  
Oklahoma Ecological Services Field Office  
9014 East 21st St.  
Tulsa, Oklahoma 74129

All project reviews will receive a return receipt to inform you that your project has been successfully submitted.

Maintain a complete copy of the project review package since it will become an integral part of your official record of compliance. Upon receipt of your project review package, please allow the OKESFO 30 days to review the information provided and respond, if necessary.

To begin project review proceed to **Step 1**.

---

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## Project Reviews in Oklahoma

### Step 1

Define the proposed project **action area** following instructions in the link. This action area will be the area referenced in all steps below. Provide a map that shows your project's action area and any supporting information in your project review package. Failure to correctly define the action area as instructed will result in incorrect outcomes and may not comply with the ESA.

Continue to **Step 2**.

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## Project Reviews in Oklahoma

### Step 2

Determine if endangered and threatened (listed) or candidate species or designated **critical habitat** are likely to occur in the action area. Use the Service's Information, Planning and Consultation system (IPaC) to determine if any listed or candidate species or their designated critical habitat may be present in the action area. Following the directions in IPaC, use the initial project scoping tool to generate an Official Species list by selecting the map tool and drawing the delineated action area. After selecting the appropriate project type, request an Official Species List. The Official Species List will include all species and any designated critical habitat that may occur in the action area includes a map of the action area. IPaC will also generate a list of National Wildlife Refuges in the vicinity of your action area. Print the PDF version of this Official Species List and add it to your project review package. **Do not use** the state / county list tool for this review since it will list all species that may occur in that state / county and will not provide site specific information. After completing the steps in IPaC, exit that website and continue below.

### Species Conclusion

(A). If the Official Species list indicates that there are no listed / candidate species found in the action area, add "ESA listed species" to the "Species/Resource" column in your species conclusions table (MS Word Format), and conclude "species not

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present." Continue to Step 5.  
Until the proposed project is implemented, check IPaC every 90 days to ensure that listed / candidate species information for the action area is current. If any changes to the species list occur, you must complete this process for the newly identified species.

(B). If the Official Species list indicates that listed or candidate species may be present in the action area, add all of the species on the list to the "Species/Resource" column in your species conclusions table (MS Word Format) and conclude "species present". Continue to Step 3.

#### Critical Habitat Conclusion

(C). If the Official Species list indicates that "Final designated critical habitat" is found in the action area, add "Designated critical habitat" to the "Species/Resource" column of your species conclusions table (MS Word Format), and conclude "critical habitat present."

Continue to Step 3.

*Note: Candidate species are plants and animals for which the Service has sufficient information to propose them as endangered or threatened under the ESA, but for which development of a proposed listing regulation is precluded by other higher priority listing activities. The Service encourages consideration of these species in the environmental review process by avoiding adverse impacts to these species. Until they are proposed for listing, candidate species are not legally protected pursuant to the ESA, therefore any actions undertaken to avoid impacts or provide protection for these species are optional.*



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## Project Reviews in Oklahoma

### Step 3

Determine whether any Federally listed / candidate species have been documented as occurring within the action area by contacting both the Oklahoma Department of Wildlife Conservation (ODWC) and the Oklahoma Natural Heritage Inventory (ONHI); each agency maintains a different database and has differing expertise and responsibilities regarding biological resources. Add any ODWC and ONHI correspondence to the project review package.

If either State agency indicates that a **federally** listed or candidate species has been documented within the action area, add "species present" under the conclusion column for the appropriate species on the species conclusions table. If the conclusion for all species on your list is "species present," go to **Step 5**. Otherwise, leave the conclusions column blank and continue to **Step 4**.

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## Project Reviews in Oklahoma

### Step 4

Determine whether listed / candidate species may occur based on the habitat present within the action area for each species on the ESA species list. Review the species information provided in IPaC, the **species fact sheet**, the information provided by **ODWC** and **ONHI**, and any other sources of information (e.g., habitat assessments) available to determine whether the action area contains potential habitat for each species. Any habitat assessments / surveys must be conducted by an **approved surveyor**. If you have a previous survey of your site, consult the guidelines for survey expiration for **plants** and **animals**. Surveys are valid for a certain period of time based on the species' life history. If your existing survey is no longer valid or the survey does not include the entire action area, obtain a new survey.

(A). If you can confirm that potential habitat is absent within the action area, add "no potential habitat present" to the species conclusions table for the appropriate species, and document what source(s) of information you consulted and why you reached that conclusion in the "Notes / Documentation" column of the species conclusions table. Add this documentation to your project review package.

(B). If there may be potential habitat for a listed / candidate species or if you are uncertain about whether the habitat

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types may support any listed / candidate species, a detailed habitat assessment is recommended. If the habitat assessment concludes that potential habitat is absent, add "no potential habitat present " to the species conclusions table for the appropriate species, and include why you reached that conclusion in the "Notes / Documentation" column of the species conclusions table. Add habitat assessment to your project review package.

(C). If potential habitat occurs at the site, species surveys are recommended. Please note that some species have seasonal restrictions when a survey can be conducted. Additionally, the timeframe a survey is considered valid can vary depending on the species.

1. If surveys indicate species are absent from the action area, add "potential habitat present, species not present" to the species conclusions table for the appropriate species. Add the survey report to the project review package.
2. If surveys document that a species is present, add "species present" to the species conclusions table for the appropriate species. Add the survey report to the project review package.

Conclusions should be filled in for all species at this point. If there are species on your list without conclusions, return to **Step 3** and continue through the review process until you have the appropriate conclusion for each species. When all conclusions are complete, continue to **Step 5**.

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## Project Reviews in Oklahoma

### Step 5

The "Conclusions" column should be filled in for all species / resources by this point. Use the table below to assist you in completing the "Determination" column in your species conclusions table. This table shows all the possible conclusions for each species / resources, and the resulting Eagle Act and ESA Section 7 determinations based on your conclusions. In addition, we have provided two examples of completed species conclusions tables below.

Possible Conclusions	ESA Section 7 / Eagle Act Determination
Species and critical habitat not present	No effect
No potential habitat present	
Potential habitat present, recent surveys indicate species not present	May affect, not likely to adversely affect
Species present, all potential effects discountable, insignificant, or entirely beneficial	
Potential habitat present, no recent surveys	Recommend coordination with this office
Species present, some potential	May affect, likely to

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- [Species in Oklahoma \(PDF\)](#)
- [What species occur in my project area?](#)
- [Species of Concern \(PDF\)](#)
- [Species Fact Sheets](#)

#### Critical Habitat

- [What is it? \(PDF\)](#)
- [Critical Habitat Mapper](#)

#### General Info:

- [Plants and the ESA \(PDF\)](#)
- [Bald Eagle Information \(PDF\)](#)
- [Wind Energy](#)

#### Communication Towers

- [Service Guidance on the Siting, Construction, Operation and Decommissioning of Communication Towers \(PDF\)](#)

#### Surveyors

- [Approved Surveyors](#)
- [How to be a Surveyor \(PDF\)](#)
- [How long is an animal ..survey valid? \(PDF\)](#)
- [How long is a plant ..survey valid? \(PDF\)](#)

#### Additional Documents

- [BEST Management Practices, Species Watershed Maps, Endangered Species Act, Regulations, etc.](#)

effects not discountable, insignificant, or entirely beneficial	adversely affect
Critical habitat present, effects would not appreciably diminish its value for species survival and recovery	Not likely to adversely modify critical habitat
Critical habitat present, effects would appreciably diminish its value for species survival and recovery	Likely to adversely modify critical habitat
Candidate species present	Recommend coordination with this office

#### Projects with a Federal Nexus

(A) If your ESA section 7 determination for any species is "may affect, likely to adversely affect" or for critical habitat is "likely to adversely modify," submit the project review package to this office for review. In addition, a Biological Assessment or Biological Evaluation ([click here for further instructions](#)) should be developed and included with the project review package. Complete and print the online project review request letter ([PDF](#)) and submit this letter along with your entire project review package. We request that you submit project review packages electronically to us at:

**OKProjectReview@fws.gov** Please note that any single email, including attachments, must be smaller than 25 MB. If a single email would be larger than 25 MB, please spread out multiple attachments among several emails (use the same subject name and project reference in all emails related to an individual project); otherwise mail a hard copy or DVD to our office. Project reviews will receive a return receipt to inform you that your project package has been successfully submitted. Please ensure you provide all of the requested information as we will not respond to your request until we receive a complete project review package.

(B) If your ESA section 7 determination for each species and critical habitat is "not

likely to adversely affect/modify", print the online concurrence letter (**PDF**) and submit the letter with the project review package that supports your conclusions. This office will maintain this information in our files; however, we may not provide a response.

(C) If your ESA section 7 determination for each species and critical habitat is "no effect," no concurrence from the U.S. Fish and Wildlife Service is required and will not be provided. You may print off the project review package to include in your files as documentation of Section 7 consultation.

Example of a Species Conclusions Table - where review and a response by this office is not necessary. (**PDF**)

Example of a Species Conclusions Table - where review and a response by this office will be necessary. (**PDF**)

#### **Projects without a Federal Nexus**

(A) If your ESA section 7 determination for any species is "may affect, likely to adversely affect" or "not likely to adversely affect/modify" or for critical habitat is "likely to adversely modify," submit the project review package to this office for review under Section 9 of the ESA. Complete and print the online project review request (**PDF**) and submit this letter along with your entire project review package. Please ensure you provide all of the requested information as we will not respond to your request until we receive a complete project review package.

B) If your ESA section 7 determination for each species and critical habitat is "no effect," you may print off the project review package to include in your files for compliance under Section 9 of the ESA. No further coordination with this office is necessary

**This concludes the Project Review process.**



U.S. Fish and Wildlife Service

## Natural Resources of Concern

**This resource list is to be used for planning purposes only — it is not an official species-list.**

**Endangered Species Act species-list information for your project is available online and listed below for the following FWS Field Offices:**

OKLAHOMA ECOLOGICAL SERVICES FIELD OFFICE  
9014 EAST 21ST STREET  
TULSA, OK 74129  
(918) 581-7458  
<http://www.fws.gov/southwest/es/Oklahoma/>

***Project Name:***

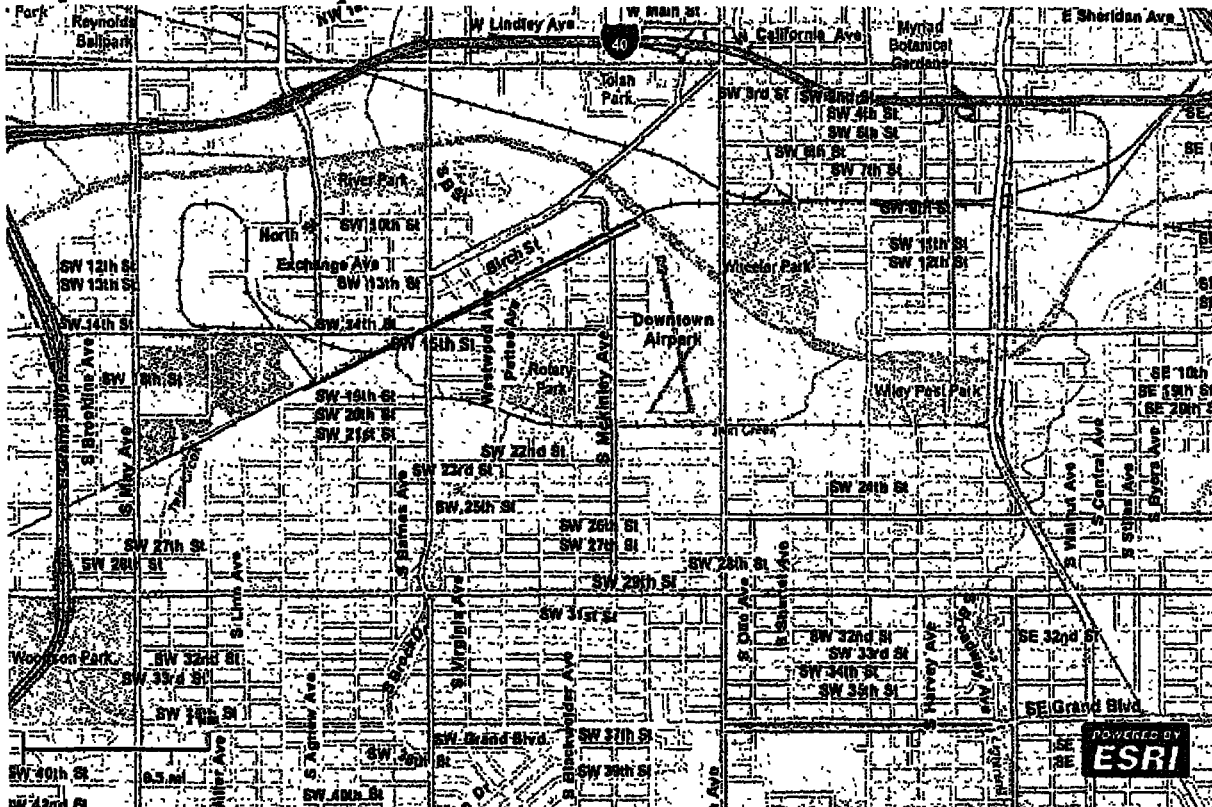
OKC abandonment



U.S. Fish and Wildlife Service

## Natural Resources of Concern

### *Project Location Map:*



### *Project Counties:*

Oklahoma, OK

### *Geographic coordinates (Open Geospatial Consortium Well-Known Text, NAD83):*

MULTIPOLYGON (((-97.5554519 35.44637, -97.5354534 35.4557255, -97.53511 35.455468, -97.53511 35.455468, -97.5554519 35.44637)))

### *Project Type:*

Land - Clearing



U.S. Fish and Wildlife Service

## Natural Resources of Concern

### ***Endangered Species Act Species-list***

There are a total of 3 species in your species-list

Species that may be affected by your project:

Birds			
Least tern ( <i>Sterna antillarum</i> ) Population: interior pop.	Endangered	<a href="#">species info</a>	Oklahoma Ecological Services Field Office
Piping Plover ( <i>Charadrius melodus</i> ) Population: except Great Lakes watershed	Threatened	<a href="#">species info</a>	Oklahoma Ecological Services Field Office
Whooping crane ( <i>Grus americana</i> ) Population: except where EXPN	Endangered	<a href="#">species info</a>	Oklahoma Ecological Services Field Office

### ***FWS National Wildlife Refuges***

There are no refuges found within the vicinity of your project.

### ***FWS Migratory Birds***

Not yet available through IPaC.

### ***FWS Delineated Wetlands***

Not yet available through IPaC.



United States Department of Interior  
Fish and Wildlife Service

Project name: OKC abandonment

## **Official Species-list: *OKC abandonment***

### **Oklahoma Ecological Services Field Office**

Following is an official U.S. Fish and Wildlife Service species-list from the Oklahoma Ecological Services Field Office. The species-list identifies listed and proposed species and designated and proposed critical habitat that may be affected by the project "OKC abandonment". You may use this list to meet the requirements of section 7(c) of the Endangered Species Act of 1973, as amended (ESA).

This species-list has been generated by the Service's on-line Information, Planning, and Conservation (IPaC) decision support system based on project type and location information you provided on January 17, 2012, 3:04 PM. This information is summarized below.

Please reference our tracking number, 02EKOK00-2012-SLI-0175, in future reference to this project to assist in expediting the process.

Newer information based on updated surveys, changes in the abundance and distribution of listed species, changed habitat conditions, or other factors could change this list. Please feel free to contact the office(s) identified below if you need more current information or assistance regarding the potential presence of federally proposed, listed, or candidate species, or proposed or designated critical habitat. Please note that under the ESA, a species-list is valid for 90 days. Therefore, the Service recommends that you visit the IPaC site at regular intervals during project planning and implementation for updates to species-lists and information. An updated list may be requested through the IPaC system by completing the same process used to receive this list. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

This list below only addresses federally proposed, listed, or candidate species and federally designated critical habitat. Please contact the appropriate State agencies for information regarding State species of special designation. Also, please feel free to contact the office(s) identified below if you would like information on other important trust resources (such as migratory birds) in your project area.



United States Department of Interior  
Fish and Wildlife Service

Project name: OKC abandonment

**This Species-list document is provided by:**

OKLAHOMA ECOLOGICAL SERVICES FIELD OFFICE

9014 EAST 21ST STREET

TULSA, OK 74129

(918) 581-7458

<http://www.fws.gov/southwest/es/Oklahoma/>

**TAILS consultation code:** 02EKOK00-2012-SLI-0175

**Project type:** Land - Clearing

**Project Description:** This rail line abandonment will require removal of 1.22 miles of track in Oklahoma City, OK.





United States Department of Interior  
Fish and Wildlife Service

Project name: OKC abandonment

**Project coordinates:** MULTIPOLYGON (((-97.5554519 35.44637, -97.5354534 35.4557255, -97.53511 35.455468, -97.53511 35.455468, -97.5554519 35.44637)))

**Project counties:** Oklahoma, OK



United States Department of Interior  
Fish and Wildlife Service

Project name: OKC abandonment

## Endangered Species Act Species-list

### Least tern (*Sterna antillarum*)

Population: interior pop.

Listing Status: Endangered

Condition(s):

- Wind Turbines and Wind Farms
- Towers (i.e. radio, television, cellular, microwave, meteorological)

### Piping Plover (*Charadrius melodus*)

Population: except Great Lakes watershed

Listing Status: Threatened

### Whooping crane (*Grus americana*)

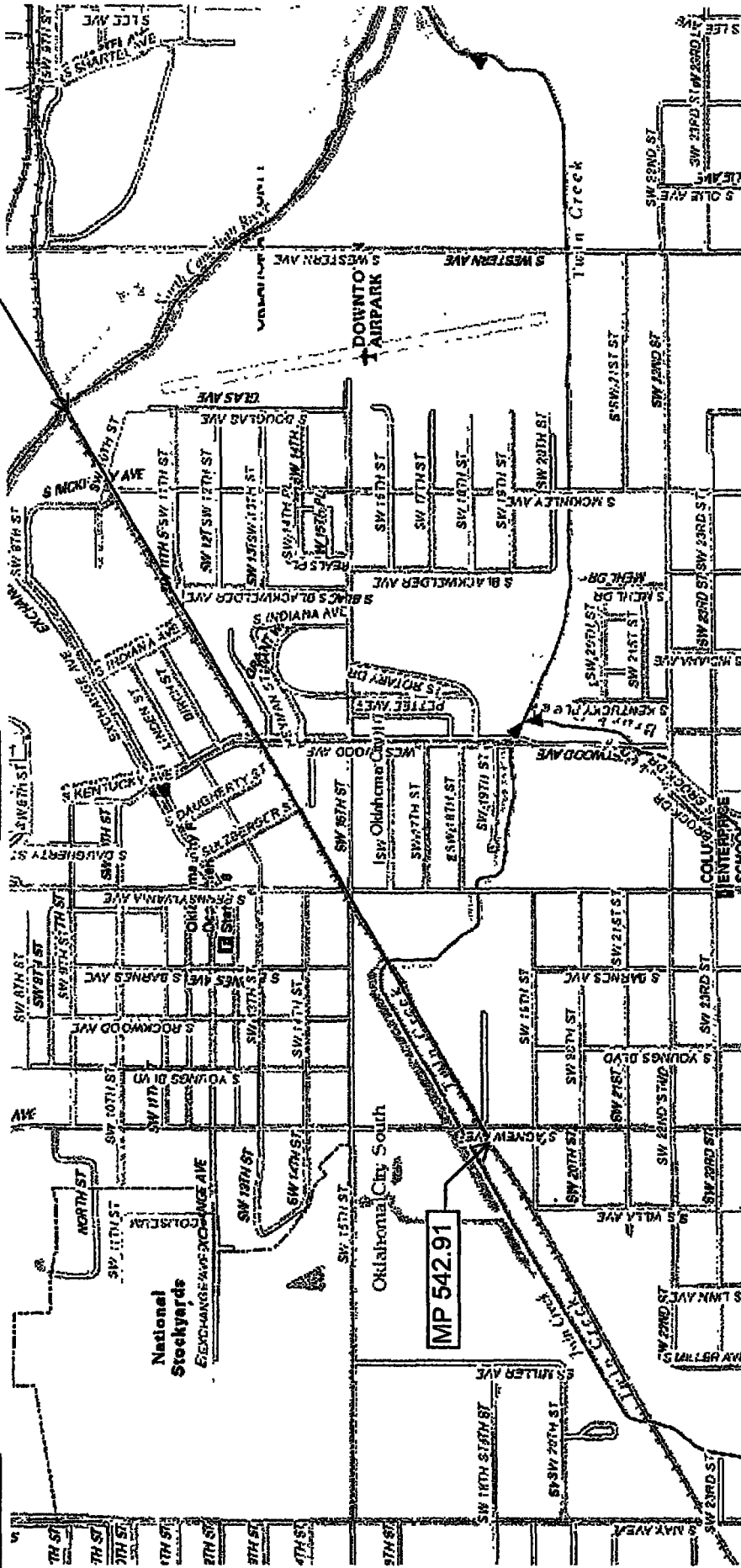
Population: except where EXPN

Listing Status: Endangered

OKC, OK

MP 541.69

MP 542.91



# Species Conclusions Table

Project Name:

Date:

Species / Resource Name	Conclusion	ESA Section 7	Notes / Documentation
Least tern ( <i>Sterna antillarum</i> )	<del>no</del> potential habitat present	no effect	see attached comments from PDWC and ONHI
Piping Plover ( <i>Charadrius melodus</i> )	no potential habitat present	no effect	see attached comments from PDWC and ONHI
Whooping Crane ( <i>Grus americana</i> )	no potential habitat present	no effect	see attached comments from PDWC and ONHI

Remember to save a copy of this form once you have filled it out. This table is part of your project review package.

**Sims, John A**

---

**From:** ianhbutler@gmail.com on behalf of Ian Butler <ian\_b@ou.edu>  
**Sent:** Tuesday, February 07, 2012 3:22 PM  
**To:** Sims, John A  
**Subject:** Fwd: OKC abandonment

OBS Ref. 2012-037-BUS-SIM

Dear Mr. Sims,

We have reviewed occurrence information on federal and state threatened, endangered or candidate species currently in the Oklahoma Natural Heritage Inventory database for the following location you provided:

BNSF Railway Company Abandonment of Oklahoma City, OK, Trackage,  
AB-6-430X

We found no occurrence(s) of relevant species within the project location as described.  
If you have any questions about this response, please send me an email, or call us at the number given below.

My apologies for the delay in responding to your query.

Sincerely,

Ian Butler  
Oklahoma Biological Survey  
111 East Chesapeake St.  
Norman, OK 73019  
405.325.1985

Begin forwarded message:

**From:** "Sims, John A" <[John.Sims@bnsf.com](mailto:John.Sims@bnsf.com)>  
**Subject:** OKC abandonment  
**Date:** January 18, 2012 8:27:52 AM CST  
**To:** "[mhowery@zoo.odwc.state.ok.us](mailto:mhowery@zoo.odwc.state.ok.us)" <[mhowery@zoo.odwc.state.ok.us](mailto:mhowery@zoo.odwc.state.ok.us)>, "[ian\\_b@ou.edu](mailto:ian_b@ou.edu)" <[ian\\_b@ou.edu](mailto:ian_b@ou.edu)>  
**Cc:** "Sims, John A" <[John.Sims@bnsf.com](mailto:John.Sims@bnsf.com)>

I am contacting your offices pursuant to Step 3 below on the Oklahoma USFWS' web site:

**Step 3**

Determine whether any Federally listed / candidate species have been documented as occurring within the action area by contacting both the Oklahoma Department of Wildlife Conservation (**ODWC**) and the Oklahoma Natural Heritage Inventory (**ONHI**); each agency maintains a different

database and has differing expertise and responsibilities regarding biological resources. Add any ODWC and ONHI correspondence to the project review package.

If either State agency indicates that a **federally** listed or candidate species has been documented within the action area, add "species present" under the conclusion column for the appropriate species on the species conclusions table. If the conclusion for all species on your list is "species present," go to **Step 5**. Otherwise, leave the conclusions column blank and continue to **Step 4**.

BNSF Railway Company ("BNSF") anticipates filing in the near future a Notice of Exemption seeking Surface Transportation Board ("STB") authority to abandon 1.22 miles of rail line in Oklahoma City, OK (**see Exhibit A in the attachment below**). The STB requires BNSF to submit Environmental and Historic Reports prior to filing its exemption. In this instance, BNSF was required to consult with USFWS regarding any endangered species, as you will see in Exhibit A. I'm also attaching a resource list (**see Exhibit B in the attachment below**) and an Official Species-list (**See Exhibit C in the attachment below**) that I generated on USFWS' web site. As you will see in the letter in Exhibit A, it outlines the salvage process. BNSF uses experienced rail material salvagers and does not anticipate disrupting any endangered or threatened species, wildlife sanctuaries or refuges, or areas designated as critical habitat adjacent to or near the line as the salvage activities are limited to the width of the railroad right-of-way.

If possible, we would like to receive your reply within the next two weeks. If you have any questions, please contact me at **817-352-2376**.

Regards,

**John A. Sims, CP**

**Paralegal**

**BNSF Railway Company**

**2500 Lou Menk Drive, 3rd Fl**

**Fort Worth, Texas 76131-2828**

**817.352.2376**

**817.352.2397** (fax)

**John.Sims@BNSF.com**

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## Sims, John A

---

**From:** Mark Howery <mhowery@zoo.odwc.state.ok.us>  
**Sent:** Wednesday, January 18, 2012 9:19 AM  
**To:** Sims, John A  
**Cc:** ian\_b@ou.edu  
**Subject:** Re: OKC abandonment

Hi John,

We don't have any additional information regarding threatened and endangered species on your site in Oklahoma City or elsewhere in Oklahoma County. There are no state-listed threatened or endangered species in Oklahoma County and, given the habitat at your site, it seem very unlikely that any of the federally threatened or endangered species would occur there either.

Thank you for checking and I hope this helps,  
Mark

Mark Howery  
Wildlife Diversity Biologist  
Oklahoma Dept. of Wildlife Conservation  
[mhowery@zoo.odwc.state.ok.us](mailto:mhowery@zoo.odwc.state.ok.us)

----- Original Message -----

**From:** "Sims, John A" <John.Sims@bnsf.com>  
**Date:** Wednesday, January 18, 2012 8:28 am  
**Subject:** OKC abandonment  
**To:** "mhowery@zoo.odwc.state.ok.us"  
<mhowery@zoo.odwc.state.ok.us>, "ian\_b@ou.edu" <ian\_b@ou.edu>  
**Cc:** "Sims, John A" <John.Sims@bnsf.com>

> I am contacting your offices pursuant to Step 3 below on the  
> Oklahoma USFWS' web site:  
> Step 3  
> Determine whether any Federally listed / candidate species have  
> been documented as occurring within the action area by contacting  
> both the Oklahoma Department of Wildlife Conservation  
> (ODWC)  
> <<http://www.wildlifedepartment.com/wildlifemgmt/endangeredspecies.htm>>  
> and the Oklahoma Natural Heritage Inventory  
> (ONHI<<http://www.oknaturalheritage.ou.edu/index.htm>>); each agency  
> maintains a different database and has differing expertise and  
> responsibilities regarding biological resources. Add any ODWC and ONHI  
> correspondence to the project review package.  
>  
> If either State agency indicates that a federally listed or  
> candidate species has been documented within the action area, add  
> "species present" under the conclusion column for the appropriate  
> species on the species conclusions table. If the conclusion for  
> all species on your list is "species present," go to Step  
> 5<[http://www.fws.gov/southwest/es/oklahoma/OKESFO%](http://www.fws.gov/southwest/es/oklahoma/OKESFO%20Project_Reviews_Step5.htm)  
> 20Project\_Reviews\_Step5.htm>. Otherwise, leave the conclusions column

blank and continue to Step

4<[http://www.fws.gov/southwest/es/oklahoma/OKESFO%20Project\\_Reviews\\_Step4.htm](http://www.fws.gov/southwest/es/oklahoma/OKESFO%20Project_Reviews_Step4.htm)>.

> BNSF Railway Company ("BNSF") anticipates filing in the near  
> future a Notice of Exemption seeking Surface Transportation Board  
> ("STB") authority to abandon 1.22 miles of rail line in Oklahoma  
> City, OK (see Exhibit A in the attachment below). The STB  
> requires BNSF to submit Environmental and Historic Reports prior  
> to filing its exemption. In this instance, BNSF was required to  
> consult with USFWS regarding any endangered species, as you will  
> see in Exhibit A. I'm also attaching a resource list (see Exhibit  
> B in the attachment below) and an Official Species-list (See  
> Exhibit C in the attachment below) that I generated on USFWS' web  
> site. As you will see in the letter in Exhibit A, it outlines the  
> salvage process. BNSF uses experienced rail material salvagers  
> and does not anticipate disrupting any endangered or threatened  
> species, wildlife sanctuaries or refuges, or areas designated as  
> critical habitat adjacent to or near the line as the salvage  
> activities are limited to the width of the railroad right-of-way.  
> If possible, we would like to receive your reply within the next  
> two weeks. If you have any questions, please contact me at 817-  
> 352-2376.

>

> Regards,

> John A. Sims, CP

> Paralegal

> BNSF Railway Company

> 2500 Lou Menk Drive, 3rd Fl

> Fort Worth, Texas 76131-2828

> 817.352.2376

> 817.352.2397 (fax)

> [John.Sims@BNSF.com](mailto:John.Sims@BNSF.com)<<mailto:John.Sims@BNSF.com>>

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> and notify us immediately by return e-mail and/or phone (817)352-  
> 2376. Thank you.

>

>

>







**John A. Sims, CP**  
Paralegal  
Law Department

**BNSF Railway Company**  
2500 Lou Menk Drive – AOB-3  
Fort Worth, Texas 76131-2828  
tel 817-352-2376  
fax 817-352-2397  
Email – john.sims@bnsf.com

December 8, 2011

Bureau of Land Management  
Oklahoma Field Office  
7906 E. 33<sup>rd</sup> Street, Suite 101  
Tulsa, OK 74145-1352

**Re: STB Docket No. AB-6 (Sub-No. 480X) BNSF Railway Company –  
Abandonment Exemption – in Oklahoma County, Oklahoma**

BNSF Railway Company ("BNSF") anticipates filing in the near future a Notice of Exemption seeking Surface Transportation Board ("STB") authority in the above-referenced docket to abandon 1.22 miles of rail line in Oklahoma County, Oklahoma, between Milepost 541.69 and Milepost 542.91 in Oklahoma City, within Oklahoma County, OK.

As part of the requisite environmental report, BNSF needs to know: 1) whether or not there are any endangered or threatened species, wildlife sanctuaries or refuges, or areas designated as critical habitat adjacent to or near the line, and 2) if so, what effects the proposed action may have on same.

For your reference I have enclosed a map of the subject railroad line. Following is information on BNSF's salvage process as it relates to this project that should also be of use:

The proposed abandonment will include the removal of the rails and ties; however, the railroad right of way, ballast and culverts will remain in place.

The salvage process begins with the unbolting of the track materials or rails. With the use of specialized machinery placed on the railroad right of way, the rails and related steel (angle bars, tie plates, spikes, switches and any other metal parts) are removed. Next the wooden ties are raised from among the ballast with a tool designed for minimum disruption of ground material. The ties are separated into three groups as follows: (1) good quality ties that will be re-used in rail service, (2) landscape-quality ties that will be re-sold to lumber dealers for landscaping and (3) scrap ties. Scrap ties are loaded into railcars and shipped by BNSF to an EPA-approved disposal site.

The culverts, ballast and right of way will remain intact so as not to alter the prevailing waterflows along the line. In addition, BNSF salvage contractors are required to limit their activities to the width of the right of way and not to place fills or other material in water bodies, including inland waterways. When the salvage process is complete, waterflows in the area should not be disrupted.

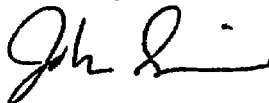
Finally, road crossings are removed and remediated, then repaved with gravel, asphalt or concrete, as required by governing authority. Any signals are also dismantled and removed.

BNSF salvage work for abandonments is always performed by experienced rail material salvagers and is generally bid on the open market. Each salvage contract includes detailed information on any environmental or historical conditions recommended by the Office of Environmental Analysis and imposed by the Surface Transportation Board in their final decision. Completed work is independently inspected by a BNSF roadmaster (or equal representative) to ensure compliance with BNSF standards of quality and all contractual obligations, including STB-imposed conditions, if applicable.

Please provide your assessment and comments to me at the address above, if at all possible, by January 20, 2012. You may contact me by email or phone with any questions or concerns.

Thank you in advance for your time and contribution.

Sincerely,

A handwritten signature in black ink, appearing to read 'John A. Sims'.

John A. Sims, CP  
Paralegal

Enclosure as stated

cc via email: Courtney Estes – BNSF – [courtney.estes@bnsf.com](mailto:courtney.estes@bnsf.com)  
Karl Morell – Ball Janik LLP – [kmorell@bjllp.com](mailto:kmorell@bjllp.com)  
Susan Odom – BNSF – [susan.odom@bnsf.com](mailto:susan.odom@bnsf.com)  
Mark Norton – BNSF – [mark.norton@bnsf.com](mailto:mark.norton@bnsf.com)  
Farah Ali – BNSF – [farah.ali@bnsf.com](mailto:farah.ali@bnsf.com)



John A. Sims, CP  
Paralegal  
Law Department

BNSF Railway Company  
2600 Lou Menk Drive - AOB-3  
Fort Worth, Texas 76131-2828  
tel 817-352-2376  
fax 817-352-2397  
Email - john.sims@bnsf.com

December 8, 2011

Ms. Cheryl Eckhardt  
National Park Service  
12795 Alameda Parkway  
Denver, CO 80225



The National Park Service reviewed this project, and determined that no parks will be affected; therefore, we have no comments.

Signed: Crystal Salas Date: 12/22/11

**Re: STB Docket No. AB-6 (Sub-No. 480X) BNSF Railway Company -  
Abandonment Exemption - in Oklahoma County, Oklahoma**

BNSF Railway Company ("BNSF") anticipates filing in the near future a Notice of Exemption seeking Surface Transportation Board ("STB") authority in the above-referenced docket to abandon 1.22 miles of rail line in Oklahoma County, Oklahoma, between Milepost 541.69 and Milepost 542.91 in Oklahoma City, within Oklahoma County, OK. Your office previously replied to an inquiry letter regarding a 2.95-mile rail line which included this rail line on August 23, 2005 (see copy enclosed). BNSF is once again seeking authority to abandon this 1.22-mile rail line.

As part of the requisite environmental report, BNSF needs to know: 1) whether or not there are any wildlife sanctuaries or National or State parks or forests adjacent to or near the line, and 2) if so, what effects the proposed action may have on same.

For your reference I have enclosed a map of the subject railroad line. Following is information on BNSF's salvage process as it relates to this project that should also be of use:

The proposed abandonment will include the removal of the rails and ties; however, the railroad right of way, ballast and culverts will remain in place.

The salvage process begins with the unbolting of the track materials or rails. With the use of specialized machinery placed on the railroad right of way, the rails and related steel (angle bars, tie plates, spikes, switches and any other metal parts) are removed. Next the wooden ties are raised from among the ballast with a tool designed for minimum disruption of ground material. The ties are separated into three groups as follows: (1) good quality ties that will be re-used in rail service, (2) landscape-quality ties that will be re-sold to lumber dealers for landscaping and (3) scrap ties. Scrap ties are loaded into railcars and shipped by BNSF to an EPA-approved disposal site.

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Finally, road crossings are removed and remediated, then repaved with gravel, asphalt or concrete, as required by governing authority. Any signals are also dismantled and removed.

BNSF salvage work for abandonments is always performed by experienced rail material salvagers and is generally bid on the open market. Each salvage contract includes detailed information on any environmental or historical conditions recommended by the Office of Environmental Analysis and imposed by the Surface Transportation Board in their final decision. Completed work is independently inspected by a BNSF roadmaster (or equal representative) to ensure compliance with BNSF standards of quality and all contractual obligations, including STB-imposed conditions, if applicable.

Please provide your assessment and comments to me at the address above, if at all possible, by January 20, 2012. You may contact me by email or phone with any questions or concerns.

Thank you in advance for your time and contribution.

Sincerely,



John A. Sims, CP  
Paralegal

Enclosure as stated

cc via email: Courtney Estes – BNSF – [courtney.estes@bnsf.com](mailto:courtney.estes@bnsf.com)  
Karl Morell – Ball Janik LLP – [kmorell@bjllp.com](mailto:kmorell@bjllp.com)  
Susan Odom – BNSF – [susan.odom@bnsf.com](mailto:susan.odom@bnsf.com)  
Mark Norton – BNSF – [mark.norton@bnsf.com](mailto:mark.norton@bnsf.com)  
Farah Ali – BNSF – [farah.ali@bnsf.com](mailto:farah.ali@bnsf.com)

F



**John A. Sims, CP**  
Paralegal  
Law Department

**BNSF Railway Company**  
2500 Lou Menk Drive – AOB-3  
Fort Worth, Texas 76131-2828  
tel 817-352-2376  
fax 817-352-2397  
Email – john.sims@bnsf.com

December 8, 2011

Matt Pace  
Environmental Program Specialist  
Water Quality Department  
Oklahoma Dept. of Environmental Quality  
707 N Robinson  
Oklahoma City, OK 73102

**Re: STB Docket No. AB-6 (Sub-No. 480X) BNSF Railway Company –  
Abandonment Exemption – in Oklahoma County, Oklahoma**

BNSF Railway Company ("BNSF") anticipates filing in the near future a Notice of Exemption seeking Surface Transportation Board ("STB") authority in the above-referenced docket to abandon 1.22 miles of rail line in Oklahoma County, Oklahoma, between Milepost 541.69 and Milepost 542.91 in Oklahoma City, within Oklahoma County, OK. Your office previously replied to an inquiry letter regarding a 2.95-mile rail line which included this rail line on August 1, 2005 (see copy enclosed). BNSF is once again seeking authority to abandon this 1.22-mile rail line.

As part of the environmental report, BNSF is required to contact your agency to determine if the proposed abandonment:

1. will affect land or water uses within a designated coastal zone;
2. is consistent with applicable Federal, State or local water quality standards (with a description of any inconsistencies identified); and
3. will require permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342).

For your reference I have enclosed a map of the subject railroad line. Following is information on BNSF's salvage process as it relates to this project that should also be of use:

The proposed abandonment will include the removal of the rails and ties; however, the railroad right of way, ballast and culverts will remain in place.

The salvage process begins with the unbolting of the track materials or rails. With the use of specialized machinery placed on the railroad right of way, the rails and related steel (angle bars, tie plates, spikes, switches and any other metal parts) are removed. Next the wooden ties are raised from among the ballast with a tool designed for minimum disruption of ground material. The ties are separated into three groups as follows: (1) good quality ties that will be re-used in rail service, (2) landscape-quality ties that will be re-sold to lumber dealers for landscaping and (3) scrap ties. Scrap ties are loaded into railcars and shipped by BNSF to an EPA-approved disposal site.

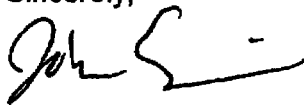
The culverts, ballast and right of way will remain intact so as not to alter the prevailing waterflows along the line. In addition, BNSF salvage contractors are required to limit their activities to the width of the right of way and not to place fills or other material in water bodies, including inland waterways. When the salvage process is complete, waterflows in the area should not be disrupted. Finally, road crossings are removed and remediated, then repaved with gravel, asphalt or concrete, as required by governing authority. Any signals are also dismantled and removed.

BNSF salvage work for abandonments is always performed by experienced rail material salvagers and is generally bid on the open market. Each salvage contract includes detailed information on any environmental or historical conditions recommended by the Office of Environmental Analysis and imposed by the Surface Transportation Board in their final decision. Completed work is independently inspected by a BNSF roadmaster (or equal representative) to ensure compliance with BNSF standards of quality and all contractual obligations, including STB-imposed conditions, if applicable.

Please provide your assessment and comments to me at the address above, if at all possible, by January 20, 2012. You may contact me by email or phone with any questions or concerns.

Thank you in advance for your time and contribution.

Sincerely,



John A. Sims, CP  
Paralegal

Enclosure as stated

cc via email: Courtney Estes – BNSF – [courtney.estes@bnsf.com](mailto:courtney.estes@bnsf.com)  
Karl Morell – Ball Janik LLP – [kmorell@bjllp.com](mailto:kmorell@bjllp.com)  
Susan Odom – BNSF – [susan.odom@bnsf.com](mailto:susan.odom@bnsf.com)  
Mark Norton – BNSF – [mark.norton@bnsf.com](mailto:mark.norton@bnsf.com)  
Farah Ali – BNSF – [farah.ali@bnsf.com](mailto:farah.ali@bnsf.com)





EXHIBIT H

STEVEN A. THOMPSON  
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

BRAD HENRY  
Governor

August 1, 2005

Sidney L. Strickland, Jr.  
Sidney Strickland & Associates, PLLC  
3050 K. St. NW, Suite 101, Room 1011  
Washington, DC 20007-5108

Re: BNSF Railway Company Abandonment of Oklahoma City, OK Trackage,  
AB-6-430X

Dear Mr. Strickland:

The Oklahoma Department of Environmental Quality does not find any environmental compliance problems associated with the BNSF Railway Company Abandonment of Oklahoma City, OK Trackage, AB-6-430X site.

If this site is to disturb more than one (1) acre of land, then you must apply for a Storm Water Discharge General Permit—Construction. To receive the permit you must submit a completed Notice of Intent (NOI), DEQ Form 605-002A to the ECLS/OKC office. You must also develop and implement a Storm Water Pollution Prevention Plan for the site. This permit can be found at:

[http://www.deq.state.ok.us/WODnew/stormwater/construction/okr10\\_final\\_permit\\_13\\_sep\\_2002.pdf](http://www.deq.state.ok.us/WODnew/stormwater/construction/okr10_final_permit_13_sep_2002.pdf). The NOI can be found in Appendix B of this permit.

If you have any questions, please contact Matt Pace, Environmental Programs Specialist, at (405) 702-6209 or e-mail at [matt.pace@deq.state.ok.us](mailto:matt.pace@deq.state.ok.us).

Sincerely,

Samantha Chilton  
Engineer Intern II  
Watershed Planning & Stormwater Permitting  
Water Quality Division

cc: Matt Pace, Environmental Programs Specialist



## **Sims, John A**

---

**From:** Larsen.Brent@epamail.epa.gov  
**Sent:** Tuesday, December 13, 2011 11:20 AM  
**To:** Sims, John A  
**Subject:** STB Docket No AB-6 (Sub-No. 480X)

Mr. Sims:

I have reviewed your letter of December 8, 2011, regarding abandonment of a 1.22 mile section of rail line in Oklahoma County, Oklahoma. According to your description of the project, it would disturb less than one acre and would therefore fall below the threshold requiring a permit under the NPDES construction storm water program.

However, the NPDES permitting program has been assumed by the Oklahoma Department of Environmental Quality and you should also contact that agency as the primary permitting and enforcement authority for discharges in Oklahoma that are not located on Indian Country lands.

If you have any question, please feel free to contact me at the address below.

Sincerely,

Brent Larsen  
Chief  
Permits and Technical Assistance Section (6WQ-PP)  
NPDES Permits & TMDLs Branch  
EPA Region 6  
1445 Ross Ave., Suite 1200  
Dallas, TX 75202  
214-665-7523  
FAX 214-665-2191  
[larsen.brent@epa.gov](mailto:larsen.brent@epa.gov)





**DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, TULSA DISTRICT  
1645 SOUTH 101ST EAST AVENUE  
TULSA, OKLAHOMA 74128-4609**

January 31, 2012

Regulatory Office

PROJECT NAME: BNSF Abandonment of 1.22 Miles of Railway. Milepost 541.69-542.91

CORPS CASE NO.: SWT-2011-1084

CORPS POC: Mr. Jamie Hyslop, 918-669-7400

Mr. John Sims  
BNSF  
2500 Lou Menk Drive – AOB-3  
Fort Worth, TX 76131-2828

Dear Mr. Sims:

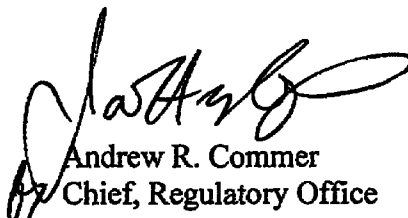
Please reference your correspondence regarding the above listed activity.

Your proposed activity is not subject to regulation pursuant to Section 404 of the Clean Water Act, and a Department of the Army (DA) permit will not be required. Should your method of construction necessitate such a discharge into an aquatic area or tributary stream, we suggest that you resubmit that portion of your project so that we may determine whether an individual DA permit will be required.

Although DA authorization is not required, this does not preclude the possibility that other Federal, State, or local permits may be required.

If you have any questions or if further assistance is desired, contact the Corps POC listed above. Please refer to the case number listed above during any future correspondence. If you desire to complete a "Customer Service Survey" on your experience with the Corps Regulatory Program, you are invited to visit <http://per2.nwp.usace.army.mil/survey.html> on the internet at your convenience and submit your comments.

Sincerely,



Andrew R. Commer  
Chief, Regulatory Office





## Oklahoma Historical Society

*Founded May 27, 1893*

### State Historic Preservation Office

Oklahoma History Center • 800 Nazih Zuhdi Drive • Oklahoma City, OK 73105-7914  
(405) 521-6249 • Fax (405) 522-0816 • [www.okhistory.org/shpo/shpom.htm](http://www.okhistory.org/shpo/shpom.htm)

January 4, 2012

Mr. John A. Sims  
BNSF Railway Company  
2500 Lou Menik Drive  
Fort Worth, TX 76131-2828

RE: File #0424-12; BNSF Railway Abandonment Exemption #AB-6 (480X)

Dear Mr. Sims:

We have received and reviewed the documentation submitted on the referenced project in Oklahoma County. Additionally, we have examined the information contained in the Oklahoma Landmarks Inventory (OLI) files and other materials on historic resources available in our office. We find that there are no known historic properties affected within the referenced project's area of potential effect.

In addition to our review, you must contact the Oklahoma Archeological Survey (OAS), 111 E. Chesapeake, #102, Norman OK 73019-5111 (#405/325-7211, FAX #405/325-7604), to obtain a determination about the presence of prehistoric resources that may be eligible for the National Register of Historic Places. Should the OAS conclude that there are no prehistoric archaeological sites or other types of "historic properties," as defined in 36 CFR Part 800.16(l), which are eligible for inclusion in the National Register of Historic Places within the project area and that such sites are unlikely to occur, we concur with that opinion.

The OAS may conclude that an on-site investigation of all or part of the project impact area is necessary to determine the presence of archaeological resources. In the event that such an investigation reveals the presence of prehistoric archaeological sites, we will defer to the judgment of the OAS concerning whether or not any of the resources should be considered "historic properties" under the Section 106 review process. If sites dating from the historic period are identified during the survey or are encountered during implementation of the project, additional assessments by the State Historic Preservation Office will be necessary.

Should further correspondence pertaining to this project be necessary, please reference the above underlined file number. If you have any questions, please contact Timothy G. Baugh, Ph.D., Historical Archaeologist, at 405/521-6381. Thank you.

Sincerely,

Melvena Heisch  
Deputy State Historic  
Preservation Officer

MH:jr



## Oklahoma Archeological Survey

THE UNIVERSITY OF OKLAHOMA

January 13, 2012

John A. Sims  
BNSF Railway Company  
2500 Lou Menk Drive - AOB-3  
Fort Worth, Texas 76131-2828

Re: Proposed abandonment of 1.22 miles of rail line between Milepost 541.69 and Milepost 542.91 in Oklahoma City. Legal Description: Portions of Sections 7 and 5 T11N R3W, Oklahoma County, Oklahoma.

Dear Mr. Sims:

The Community Assistance Program staff of the Oklahoma Archeological Survey has reviewed the above referenced project in order to identify potential areas that may contain prehistoric or historic archaeological materials (historic properties). The location of your project has been crosschecked with the state site files containing approximately 18,000 archaeological sites that are currently recorded for the state of Oklahoma. No sites are listed as occurring within your project area, and based on the topographic and hydrologic setting; no archaeological materials are likely to be encountered. Thus an archaeological field inspection is not considered necessary. However, should construction activities expose buried archaeological materials such as chipped stone tools, pottery, bone, historic crockery, glass, metal items or building materials, this agency should be contacted immediately at (405) 325-7211. A member of our staff will be sent to evaluate the significance of these remains.

This environmental review and evaluation is performed in order to locate, record, and preserve Oklahoma's prehistoric and historic cultural heritage in cooperation with the State Historic Preservation Office, Oklahoma Historical Society, and you must also have a letter from that office to document your consultation pursuant to Section 106 of the National Historic Preservation Act. In addition to our review comments, under 36CFR Part 800.3 you are reminded of your responsibility to consult with the appropriate Native American tribe/groups to identify any concerns they may have pertaining to this undertaking and potential impacts to properties of traditional and/or ceremonial value.

Sincerely,

*Shary Lambert for.*  
C. Adam Moody  
Staff Archaeologist

*Robert L. Brooks*  
Robert L. Brooks  
State Archaeologist

:ls

Cc: SHPO

